



CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 7, 2004

ITEM NUMBER:

SUBJECT: PRIORITIZATION OF PROGRAM AND SERVICE EFFORTS –
DEVELOPMENT APPEALS PROCESS

DATE: AUGUST 17, 2004

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: R. MICHAEL ROBINSON, PLANNING & REDEVELOPMENT MANAGER

FOR FURTHER INFORMATION CONTACT: R. MICHAEL ROBINSON, PLANNING &
REDEVELOPMENT MANAGER (714) 754-5610

RECOMMENDATION:

Provide direction to staff regarding the development appeals process.

BACKGROUND:

At the June 21, 2004 meeting, City Council discussed a number of budget-related programs and service efforts. One of the items selected for further review was the development appeal process. The attached report (Attachment 1) was prepared to detail the purpose and costs associated with the overall appeals and rehearing process.

On August 16, 2004, City Council considered the City Council appeals process, but continued action on this item to the September 7, 2004 meeting. Much of the background discussion and alternatives from the August 16, 2004 Council Agenda Report are also applicable to development appeals process. This report will focus on the portion of the appeals process for development projects only.

ANALYSIS:

Development project appeals are governed by the same Municipal Code requirements as all other appeals (Chapter IX of Title 2, Section 2-300 et seq) and subject to the fee structure. However, it is possible for a single development project decision to be appealed through a larger number of hearing bodies. As an example, a decision by the Zoning Administrator can be appealed to the Planning Commission; and then the Planning Commission decision can be appealed to the City Council.

While any development project decision can be appealed, the most common type of appeal over the last few years has been for Zoning Administrator decisions on minor design review applications. Since the establishment of this process in August 2001, 146 ZA decisions have been made. Of this total, fourteen projects (less than 10%) were denied. A total of 24 minor design reviews (approximately 16%) were appealed or went

to the Planning Commission for other reasons (i.e. one was referred by the Zoning Administrator on a policy issue, and one was forwarded because it was in the area under consideration for a view preservation overlay zone). Seven of the 24 Planning Commission appeals (approximately 30%) were subsequently appealed to City Council. The following table indicates the action on these appeals by each body:

APPEAL BODY	TOTAL APPEALS	APPEALS UPHELD/APPROVED	APPEALS OVERTURNED/DENIED
Planning Commission	24	22	2
City Council	7	6	1

As noted in the attached report, the overall appeals process is intended to be "revenue neutral" since a processing fee is charged to cover the costs of the appeal. However, if a Planning Commissioner or City Council member files the appeal, or if the Zoning Administrator forwards an application to the Planning Commission, no fee is charged. Of the 31 minor design review appeals listed above, two were forwarded by the Zoning Administrator, three were appealed by the applicants, six were appealed by neighbors, and the remaining 20 were appealed by either a Planning Commissioner or City Council member on their own behalf, or on behalf of the applicant or other resident.

Based on the current fee schedule (\$470 for an appeal to the Planning Commission; \$810 to the City Council), the 22 Zoning Administrator/Commissioner/Council member appeals represented a loss of \$11,570 in appeal fee revenue.

ALTERNATIVES CONSIDERED:

The August 16, 2004 City Council Agenda Report on the overall appeals process included four alternatives. One of these alternatives was specific to City Council appeals of Planning Commission decisions, and required more than one council member (or a majority) to bring an appeal to Council. If Council is interested in this approach, the same requirements could also be placed on Planning Commission appeals of Zoning Administrator decisions.

Another option would be to limit appeals to a single hearing body. Under this scenario, a Zoning Administrator decision could only be appealed to the Planning Commission. This approach would preclude a Zoning Administrator decision from being appealed to the Planning Commission, and then having the Commission decision being appealed to City Council.

FISCAL REVIEW:

Financial Management has reviewed the information for accuracy.

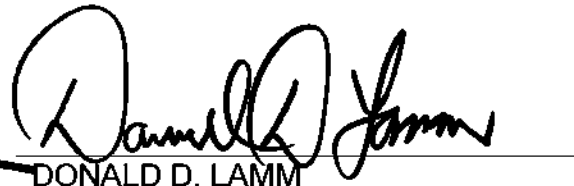
LEGAL REVIEW:

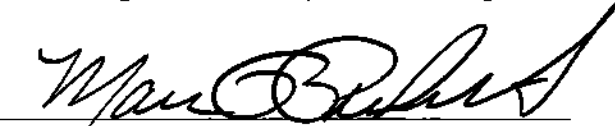
Legal has reviewed the accuracy of the information provided.

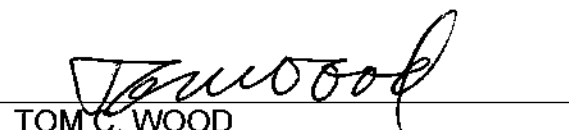
CONCLUSION:

The request for review of the development appeals process has provided staff an opportunity to review alternatives with the reduction of the City's costs as the focus. It is requested that Council consider the information provided and direct staff as to the desired modification to the appeals structure/process, or to continue with the current practice as prescribed.


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Planning & Redevelopment Manager


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 City Clerk (2)
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Attachment: 1 Priorities and Service Priorities discussion item

File: 090704DevAppealsProcess

Date: 8/24/04

Time 0900a.m.

DISCUSSION ITEM

FISCAL YEAR 2004-2005

APPEALS PROCESS - CITY MANAGER / DEVELOPMENT SERVICES (item #10 & #19)

PROGRAM/SERVICE DESCRIPTION:

The Costa Mesa Municipal Code provides for appeals of decisions by City staff and Commissions, and for rehearing of City Council decisions. Discretionary decisions on development permits may currently be appealed from Development Services staff and Zoning Administrator to the Planning Commission, from Planning Commission to City Council. A rehearing request may be submitted after a City Council decision. In the case of a rehearing, a hearing is first held to consider whether the request meets the criteria for rehearing. If so, a date is set for the actual rehearing at a later meeting. A Council Member may also call up a decision for review by the City Council or Planning Commission.

IMPACT ANALYSIS:

Service Delivery – How will service delivery be affected? Identify alternative methods of service delivery.

To streamline the appeals process, the City Council may designate the Planning Commission as the final review authority on development permits, with no appeal provisions to City Council. Additionally, the rehearing process may be simplified by eliminating the first "hearing" to decide whether or not a rehearing should be conducted. If the request for a rehearing is filed, the Planning Commission would then hold a rehearing.

Other Departments – Identify departments that will be affected by reducing or eliminating the service.

By modifying this process, staff time would be reduced in all affected departments. Those most often affected are Development Services, City Attorney's Office, Public Services, and the City Clerk's Office.

Gradients/Reductions

The recommended service delivery is a modification of the City's current appeal/rehearing process.

Other Organizations

☐ YES – Please identify.

☒ NO

Grants

☐ YES – Please identify.

☒ NO

Contractual Requirements

☐ YES -- Please identify.

☒ NO

CITY OF COSTA MESA, CALIFORNIA

APPEALS PROCESS - CITY MANAGER / DEVELOPMENT SERVICES (item #10 & #19) cont'd

PROGRAM/SERVICE COSTS ANALYSIS:

Revenue	\$	7,940	Expenditure	\$	8,606
Direct Cost	\$	8,085	Indirect Cost	\$	521
Personnel - Full Time		0.01	Part Time (FTE)		0.00
			Check Box if Seasonal Part Time		<input type="checkbox"/>
Material/Equipment Costs	\$	2,640	Future Cost Avoidance	\$	0

This program is "revenue neutral" since a processing fee is charged to the applicant to cover the costs of processing the appeal and/or rehearing. However, if a Planning Commissioner or City Councilmember appeals on behalf of a resident or applicant, the City absorbs the costs. The current fee for an appeal/rehearing to the City Council is \$810, and the fee for an appeal to the Planning Commission is \$470.

The direct cost includes overtime for an Associate Planner and materials. Currently, for appeals at the Commission level only, the annual cost is \$4,144; for appeals/rehearings at the Council level, the annual cost is \$3,891.

The recommended modification has indirect cost savings to the applicant in terms of time and carrying costs, given that the final decision could be reached at the Planning Commission level.

TRANSITION COSTS ("Go-Away" Costs):

Modification of the City's appeal and rehearing process would require appropriate amendments to the City's Municipal Code. The City Attorney's Office, in conjunction with Development Services, would prepare the draft ordinance for City Council consideration. Staff time required for ordinance preparation is nominal. The estimated time frame for completion is three to four months.

RECOMMENDED ALTERNATIVES:

None.